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PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
MSC-23228-1

First named inventor: **Patrick W. Fink**

Application No.: **09/867,993**

Art Unit: **3662**

Filed: **05/24/2001**

Examiner: **Gregory C. Issing**

Title: **Distributed Antenna System and Method**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

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OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1330.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Reply Under 37 CFR 1.111 (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

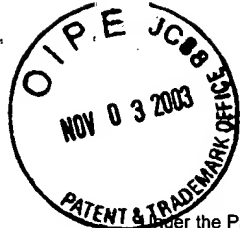
11/07/2003 AWONDAF1 00000133 140116 09867993

01 FC:1453 1330.00 DA

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 31, 2003
Date

James M. Cate
Signature

Telephone

Number: 281-483-1001

James M. Cate, Reg. No. 25,181
Typed or printed name

NASA Johnson Space Center, 2101 NASA Road One

Address

Enclosures: ☒ Fee Payment

Mail Code: HA, Houston, Texas 77058

Address

☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

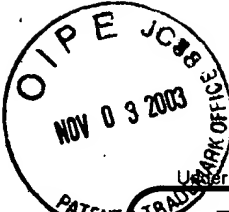
☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

10/31/2003
Date

James M. Cate
Signature

James M. Cate

Type or printed name of person signing certificate



FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1330.00

Complete if Known

| | | |
|----------------------|-------------------|---|
| Application Number | 09/867,993 | RECEIVED NOV 10 2003 OFFICE OF PETITIONS |
| Filing Date | 05/24/2001 | |
| First Named Inventor | Patrick W. Fink | |
| Examiner Name | Gregory C. Issing | |
| Art Unit | 3662 | |
| Attorney Docket No. | MSC-23228-1 | |

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number
Deposit Account Name

14-0116

National Aeronautics and Space Administration

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1001 | 770 | 2001 | 385 | Utility filing fee | |
| 1002 | 340 | 2002 | 170 | Design filing fee | |
| 1003 | 530 | 2003 | 265 | Plant filing fee | |
| 1004 | 770 | 2004 | 385 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | Extra Claims | | Fee from below | Fee Paid |
|--------------------|----------------------|--------------|----------------------|----------------|----------------------|
| Total Claims | <input type="text"/> | -20** = | <input type="text"/> | X | <input type="text"/> |
| Independent Claims | <input type="text"/> | - 3** = | <input type="text"/> | X | <input type="text"/> |
| Multiple Dependent | | | | | |

| Large Entity | | Small Entity | | Fee Description |
|--------------|----------|--------------|----------|--|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 |
| 1201 | 86 | 2201 | 43 | Independent claims in excess of 3 |
| 1203 | 290 | 2203 | 145 | Multiple dependent claim, if not paid |
| 1204 | 86 | 2204 | 43 | ** Reissue independent claims over original patent |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for <i>ex parte</i> reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 420 | 2252 | 210 | Extension for reply within second month | |
| 1253 | 950 | 2253 | 475 | Extension for reply within third month | |
| 1254 | 1,480 | 2254 | 740 | Extension for reply within fourth month | |
| 1255 | 2,010 | 2255 | 1,005 | Extension for reply within fifth month | |
| 1401 | 330 | 2401 | 165 | Notice of Appeal | |
| 1402 | 330 | 2402 | 165 | Filing a brief in support of an appeal | |
| 1403 | 290 | 2403 | 145 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,330 | 2453 | 665 | Petition to revive - unintentional | |
| 1501 | 1,330 | 2501 | 665 | Utility issue fee (or reissue) | |
| 1502 | 480 | 2502 | 240 | Design issue fee | |
| 1503 | 640 | 2503 | 320 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 770 | 2809 | 385 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 | 770 | 2810 | 385 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 | 770 | 2801 | 385 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1330.00

SUBMITTED BY

(Complete if applicable)

| | | | | | |
|-------------------|----------------------|-----------------------------------|------------|-----------|--------------|
| Name (Print/Type) | James M. Cate | Registration No. (Attorney/Agent) | 25,181 | Telephone | 281-483-1001 |
| Signature | <i>James M. Cate</i> | Date | 10/31/2003 | | |

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Attorney Docket No.: MSC-23228-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Patrick W. Fink § Art Unit : 3662
 §
Serial No.: 09/867,993 § Examiner: Gregory C. Issing
 §
Filed: May 24, 2001 § Confirmation No.: 7349

FOR: Distributed Antenna System
 and Method

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Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Petition Under 37 C.F.R. § 1.137(b)
to Revive Unintentionally Abandoned Application

The Commissioner of Patents and Trademarks is petitioned to revive the above-identified application under the provisions of 37 C.F.R. § 1.137(b) on the ground that Applicant's failure to respond to the Office action dated March 13, 2001 on a timely basis was unintentional, and that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b), was unintentional.

This petition is accompanied by:


- (a) The required reply, with petition and request for charging the fee for extension of time to Deposit Account No. 14-0116.
- (b) A supporting declaration

Attorney Docket No.: MSC-23228-1

(c) A request that the petition fee, pursuant to 37 C.F.R. 1.17(m), be charged to Deposit Account No. 14-0116.

(d) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b), was unintentional.

Respectfully submitted,

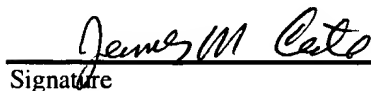


James M. Cate, Reg. No. 25,181
Attorney for Applicant

NASA Johnson Space Center/HA
NASA Road One
Houston, Texas 77058
Telephone: 281-483-1001 or -4871 Datafax: 281-244-8452

CERTIFICATE OF MAILING

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Signature

James M. Cate

Attorney Docket No.: MSC-23228-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-----------------------|--|---|-----------------------------|
| First Named Inventor: | Patrick W. Fink | § | Art Unit : 3662 |
| | | § | |
| Serial No.: | 09/867,993 | § | Examiner: Gregory C. Issing |
| | | § | |
| Filed: | May 24, 2001 | § | Confirmation No.: 7349 |
| FOR: | Distributed Antenna System and Method | | |

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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Statement Accompanying Petition Under 37 C.F.R. 1.137(b)
to Revive Unintentionally Abandoned Application

I, James M. Cate, hereby declare:

That I am the attorney of record in the above-identified application, and that I am knowledgeable of the prosecution history of the application and the circumstances leading to it's abandonment as documented in the Office communication mailed December 3, 2002.

That the failure to respond to the Office action dated April 25, 2002 on a timely basis

Attorney Docket No.: MSC-23228-1

was unintentional, and that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition for revival, pursuant to 37 C.F.R. 1.137(b), was unintentional. The failure to respond to the notice of abandonment entailed a misunderstanding of aspects of Applicant's docketing system, and modifications have been made to prevent future errors of this nature.

James M. Cate
James M. Cate
Attorney
Registration No. 25,181
281/483-1001

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Signature

James M. Cate
James M. Cate